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through partnership

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July 13, 2020

Via ECF and Hand Delivery

The Honorable Shelley C. Chapman
United States Bankruptcy Court for the
Southern District of New York
One Bowling Green
New York, NY 10004

Re: *In re: Lehman Brothers Holdings Inc., et al.*, Case No. 08-13555 (SCC)

Dear Judge Chapman:

On May 12, 2020, Lehman Brothers Holdings Inc. ("LBHI") filed a Motion in Aid of Alternative Dispute Resolution Procedures Order for Indemnification Claims of the Debtors Against Mortgage Loan Sellers (the "Motion"). (Dkt. # 60632.) Through the Motion, LBHI seeks to have this Court enter an order requiring twenty-three different entities to mediate LBHI's indemnification claims as alleged successors to other entities, at LBHI's request. My firm represents Wintrust Mortgage, a division of Barrington Bank & Trust Company, N.A. ("Wintrust"), who LBHI claims in the Motion "may be" the successor to American Homestead Mortgage LLC ("AHM"). On July 2, 2020, Wintrust, as alleged successor to AHM, filed an Objection to the Motion. (Dkt. ## 60704, 60705.) The Motion is set for hearing tomorrow, July 14, 2020 at 10:00 a.m. Eastern Time.

After business hours on Friday, July 10, 2020, LBHI filed a Notice of Adjournment of the July 14, 2020 hearing on the Motion, but only as to those entities that filed objections to the Motion or received extensions to file their objection. (Dkt. # 60729.) The Notice of Adjournment purports to set a new hearing date of August 18, 2020 for the objectors, while keeping tomorrow's hearing date as to all non-objectors. For the following reasons, Wintrust objects to the Adjournment and intends to appear at tomorrow's hearing:

1. According to Your Honor's Chambers' Rules identified on the Court's website:

Adjournments, other than those requested at the hearing, will be granted *only if agreed to by all parties or, after consent is sought* and denied, as granted by the Court after a request to Chambers, copied to those parties affected by the adjournment *and stating the basis for the request*. The moving party must contact the Courtroom Deputy to obtain the adjournment.

(emphasis added.) LBHI, however, did not seek Wintrust's consent for the Adjournment, nor have they stated a basis for the request, and, therefore, the Adjournment is procedurally improper.

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2. Wintrust believes LBHI is seeking the Adjournment for strategic reasons. Wintrust believes, as outlined in its Objection and supporting Declaration, that LBHI has no basis for the relief requested in the Motion. A delay allows LBHI to use the threat of Court-ordered mediation as to the AHM claims during LBHI's settlement discussions with Wintrust over the claims related to SGB Corp., for which Wintrust is a successor. Moreover, an Adjournment solely as to Objectors lets the Motion go forward tomorrow as to non-objectors without any resistance or consideration of the merits of the Motion.
3. Wintrust's counsel has already prepared for and is ready to argue the Motion. The attorney for Wintrust who is planning to argue on Wintrust's behalf, however, has a previously-scheduled deposition on August 18, 2020. Therefore, if the hearing is adjourned to August 18, 2020, as is stated in the Notice of Adjournment, Wintrust would have to pay for another attorney to prepare for the hearing.

Wintrust believes the Motion has no merit, at least as to Wintrust, and is interested in having the issue resolved by the Court now. Of course, LBHI always has the option of voluntarily withdrawing the Motion as to Wintrust. But given that the Court's rules do not allow for LBHI to unilaterally adjourn a hearing, and given that LBHI has not sought Wintrust's agreement to adjourn the July 14, 2020 hearing, Wintrust intends to appear at the July 14, 2020 hearing, prepared to argue the Motion.

Sincerely,



Michael S. Leib

MSL:mg

cc: LBHI's Counsel (via email and via ECF)
Counsel for the other Objectors (via email and via ECF)